

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

AUGUSTIN MUGABO,

Plaintiff,

v.

FED EX,

Defendants.

DECISION AND ORDER
21-CV-1287-A

This case was referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1) for the performance of pretrial proceedings. *Pro se* Plaintiff Augustin Mugabo seeking damages of \$325.00 from Defendant Fed Ex based on Defendant's alleged failure to deliver an iPad that Plaintiff had ordered.

On April 20, 2022, Magistrate Judge McCarthy filed a Report and Recommendation ("R&R") (Dkt. No. 4) recommending that this action be dismissed because the Court lacks subject matter jurisdiction, with objections due by May 9, 2022.

No objections to the R&R have been filed. Upon review of the R&R and the underlying record, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1) and for the reasons set forth in the R&R, the Complaint (Dkt. No. 1) is dismissed and the action against Defendant Fed Ex is DISMISSED, with prejudice; and it is further

ORDERED that Plaintiff's motion for leave to proceed *in forma pauperis* (Dkt. No. 2) is DISMISSED as moot.

The Court hereby certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith and leave to appeal to the Court of Appeals as a poor person is denied. See *Coppedge v. United States*, 369 U.S. 438 (1962). Further requests to proceed on appeal as a poor person should be directed, on motion, to the United States Court of Appeals for the Second Circuit, in accordance with Rule 24 of the Federal Rules of Appellate Procedure.

The Clerk of Court shall enter Judgment in favor of Defendant and shall take all steps necessary to close the case.

IT IS SO ORDERED.

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: May 23, 2022